

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

RICHARD BRETT FREDERKING,

§

Plaintiff,

§

vs.

Cause No. 5:17-CV-651

**THE CINCINNATI INSURANCE
COMPANY**

§

Defendant.

§

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

The Cincinnati Insurance Company (“Cincinnati”), Defendant in the above-entitled action, and hereby files its Notice of Removal, and in support thereof would respectfully show this Court the following:

**I.
STATEMENT OF CASE**

On or about June 13, 2017, Plaintiff Richard Brett Frederking (hereinafter “Frederking” or “Plaintiff”) filed suit against Cincinnati in the 408th Judicial District Court of Bexar County, Texas, under Cause No. 2017CI10867, seeking a determination of his rights under a Business Auto Coverage insurance policy, policy number EBA 013 38 68, issued by Cincinnati to Advantage Plumbing Services, Ltd. A true and correct copy of Plaintiff’s Original Petition is attached hereto as Appendix Exhibit “A” and incorporated herein. Cincinnati received notice of Plaintiff’s Original Petition on June 19, 2017. Cincinnati has not yet made an appearance in the lawsuit.

II.
BASIS FOR REMOVAL

This Court has jurisdiction of this case under the provisions of 28 U.S.C. §1332 in that there is complete diversity of citizenship among the parties. It is undisputed that Frederking is an individual who is a resident citizen of San Antonio, Bexar County, Texas. Appendix Exhibit "A", p. 1. It is also undisputed that Cincinnati is a foreign corporation with its principal place of business in Ohio. Appendix Exhibit "A", p. 1. Finally, the amount in controversy in this lawsuit is in excess of \$75,000.00, exclusive of interest and costs. *See* Appendix Exhibit "A", p. 2 ("Pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiff Frederking seeks declaratory relief and recovery of damages for monetary relief over \$200,000 but less than \$1,000,000.").

III.
REMOVAL IS TIMELY AND VENUE IS PROPER

Cincinnati received notice of Plaintiff's Petition on June 19, 2017. Cincinnati has thus timely filed this Notice of Removal within thirty days after receipt by Cincinnati of papers from which it ascertained that this case was removable. 28 U.S.C. §1446(b).

Venue is proper in this District pursuant to 28 U.S.C. §1441(a), in that this District and Division embrace the place (Bexar County, Texas) in which the underlying State action giving rise to the coverage dispute at issue in this lawsuit was decided. A true and correct copy of Plaintiff Richard Brett Frederking's live pleading in the underlying litigation at the time of trial is attached hereto as Appendix Exhibit "B". *See also* Appendix Exhibit "A", p. 2 (referencing the underlying litigation giving rise to the coverage dispute).

IV.
ATTACHED DOCUMENTS

Pursuant to 28 U.S.C. §1446(a), Cincinnati attaches to this Notice of Removal a copy of the State District Court's docket sheet, and a copy of all process, pleadings, and orders served upon them or filed in this case in the State District Court. *See Appendix, Exhibits "A" and "C".* Cincinnati has filed a civil cover sheet, supplemental cover sheet, and corporate disclosure statement contemporaneously with the filing of this Notice of Removal. *See Appendix, Exhibits "D", "E", and "F".* Cincinnati has also contemporaneously filed a Notice of Filing Notice of Removal with the Clerk of the State Court in which the action has been pending (the 408th Judicial District Court, Bexar County, Texas), pursuant to 28 U.S.C. §1446(d). *See Appendix, Exhibit "G".*

V.
CONCLUSION

Based upon the foregoing, the exhibits submitted in support of this Removal and the documents filed contemporaneously with this Notice of Removal and fully incorporated herein by reference, Cincinnati hereby removes this case to this Court for trial and determination.

Respectfully submitted,

/s/ George L. Lankford
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**ATTORNEYS FOR DEFENDANT
THE CINCINNATI INSURANCE
COMPANY**

CERTIFICATE OF SERVICE

This is to certify that on the 18th day of July, 2017, I electronically filed the foregoing document with the clerk of the Court for the United States District Court, Western District of Texas, using the electronic case filing system of the Court, and that it reported that it was delivered to all attorneys of record. In addition, service of the foregoing document was made via certified mail, return receipt requested, to:

Plaintiff Richard Brett Frederking
c/o Langdon "Trey" Smith, Attorney of Record
Jim S. Adler & Associates
1900 West Loop South, 20th Floor
Houston, Texas 77027
(713) 735-2114
(713) 781-2514 Fax

/s/ George L. Lankford
GEORGE L. LANKFORD